

CITY OF MUSKEGON
ZONING BOARD OF APPEALS
REGULAR MEETING
MINUTES

April 12, 2005

Chairman R. Hilt called the meeting to order at 4:01 p.m. and roll was taken.

MEMBERS PRESENT: C. Kufta, E. Fordham, J. Wallace, R. Hilt, S. Brock, B. Larson,
J. Clingman-Scott,

MEMBERS ABSENT: None

STAFF PRESENT: M. Cameron, D. Leafers, H. Griffith

OTHERS PRESENT: I. Jackson, 1168 Jefferson St, D. LaBrenz, Inspection Dept.

C. Kufta arrived at 4:02 p.m.

APPROVAL OF MINUTES

A motion that the minutes of the regular meeting of March 8, 2005 be approved was made by J. Clingman-Scott, supported by E. Fordham and unanimously approved.

PUBLIC HEARINGS

Hearing, Case 2005-005: Request for a variance from required side setbacks to allow a home to be rebuilt on the lot at 1174 Jefferson Street, by Chaunel Phillips. M. Cameron presented the staff report. This request is for a 7-foot side setback variance for the North side of the home, resulting in a setback of 1 foot rather than the required 8 feet, and a 10-foot side setback variance for the South side of the home, resulting in a setback of 2 feet rather than 12 feet as required. In September of 2004, the home at the subject address was damaged by fire over 50% of the replacement cost. The Zoning Ordinance allows for a nonconforming structure to be rebuilt only if damaged less than 50% of the replacement cost. Prior to the fire the home was a nonconforming structure due to the side setbacks. The applicant's site plan indicates setbacks to the structure walls instead of to the drip edge of the roof. City ordinance requires a measurement to the drip edge. Staff corrected the setback dimensions in the request to reflect setback measurements to the drip edge. Construction drawings provided by the applicant to the Inspections Department were used to determine the correct dimensions. Homes on both sides of this property are nonconforming with regard to the side setbacks and are very close to the property lines. Staff has received five comments regarding this case. William S. Abbott of 1160 Jefferson e-mailed and has no objections to the case. Lawrence O. Spataro of 1567 Sixth St. e-mailed his support for the variance so the property owner could rebuild her home. First Congregational Church at 1201 Jefferson sent a letter fully supporting the rebuilding of the home. The Nelson Neighborhood Association sent an e-mail supporting the variance. D. Vanderlaan of 1178 Jefferson sent a letter opposing the variance.

E. Fordham asked if the house would be rebuilt on the same footprint as the original structure. M. Cameron stated yes. E. Fordham stated he recalled a similar situation from last year and thought the ZBA granted the variance to rebuild on the same footprint. M. Cameron stated that he believed it was for the setbacks but would have to research it to be sure. B. Larson stated we have an old city with new ordinances and there are many non-conforming homes. D. LaBrenz stated the plans comply with the construction codes and it should be a nice house when it's finished. E. Fordham stated he would rather see the board approve plans for the house to be built on the same footprint instead of allowing a variance for the setbacks, which would stay with the property. M. Cameron stated the board could add a condition tying the variance to this specific structure. He stated the reason it is being done this way is due to the ordinance language. B. Larson felt that if a resident has invested in a home and it is lost due to fire, the governing body should allow them to rebuild.

C. Phillips stated the fire at the house was in September of 2004 and her family has not been living together since. She stated she just wants to rebuild her home and has done everything the City has asked. She stated she is not expanding the home, she just wants to repair the upper portion that was destroyed in the fire. J. Clingman-Scott asked if a contractor would be doing the work. C. Phillips stated yes. J. Clingman-Scott asked if they were eliminating a door on the house. C. Phillips stated no, they're just moving the steps to the side to comply with city regulations. I. Jackson spoke in favor of the variance. She lives next door to the subject property. She stated that before C. Phillips moved in, the house was occupied by renters who were always moving in and out, and there were problems with drug use. She stated the area is more stable when the homes are owner-occupied.

A motion to close the public hearing was made by B. Larson, supported by J. Clingman-Scott and unanimously approved.

The following findings of fact were offered: There are exceptional or extraordinary circumstances or conditions applying to the property in question or to the intended use of the property that do not apply generally to other properties or class of uses in the same zoning district. Such dimensional variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district and in the vicinity. The authorizing of such dimensional variance will not be of substantial detriment to adjacent property and will not materially impair the purposes of this chapter or the public interest. The alleged difficulty is caused by the Ordinance and has not been created by any person presently having an interest in the property, or by any previous owner. The alleged difficulty is not founded solely upon the opportunity to make the property more profitable or to reduce expense to the owner. The requested variance is the minimum action required to eliminate the difficulty.

A motion to approve the variance to permit a home to be rebuilt on the existing footprint, with a setback of only 1 foot on the north side and 2 feet on the south side, subject to the conditions that 1) the variance is recorded with the deed to keep record of it in the future, 2) that the additions to the property must be complete within one year (Sec. 2504) or the variance is void, and 3) the home is built per the final approved plans, was made by B. Larson, supported by J. Clingman-Scott and unanimously approved.

OTHER

There being no further business, the meeting was adjourned at 4:24pm

dml
4/12/05